

FILED
JUL 14 2005
CLERK OF COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF WEST VIRGINIA
AT MARTINSBURG**

MIGUEL DELGADO,

Plaintiff,

v.

**CIVIL ACTION NO. 3:04CV29
(BROADWATER)**

EDWARD RUDLOFF, et al.,

Defendants.

ORDER ADOPTING MEMORANDUM, OPINION AND ORDER

On this day the above styled case came before the Court for consideration of the Report and Recommendation of Magistrate Judge James E. Seibert, dated May 11, 2005. The petitioner did not file objections to the Report as permitted by 28 U.S.C. § 636(b)(1)(C). After reviewing the above, the Court finds the Magistrate Judge's findings are neither clearly erroneous nor contrary to law.

Therefore, it is **ORDERED**

1) the Memorandum, Opinion and Order (**Docket No. 36**) should be and is hereby **ADOPTED;**

2) Plaintiff's Motion for a Continuance of the Motion for Summary Judgment (**Docket No. 23**) is **GRANTED** based upon the reasoning set forth in the Magistrate Judge's Opinion and Order.

The Clerk is directed to transmit true copies of this Order to the petitioner and all counsel of record herein.

DATED this 6th day of June 2005.


**W. CRAIG BROADWATER
UNITED STATES DISTRICT JUDGE**